

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1086

FINAL READING

Introduced by Synowiecki, 7; Howard, 9

Read first time January 13, 2006

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend sections  
2 28-801 and 28-804.01, Reissue Revised Statutes of  
3 Nebraska, and section 28-101, Revised Statutes Cumulative  
4 Supplement, 2004; to adopt the Nebraska Prostitution  
5 Intervention and Treatment Act; to change and provide  
6 penalties relating to prostitution; to provide for  
7 the crime of solicitation of prostitution; to change  
8 provisions relating to testimony as prescribed; to  
9 prohibit forced labor or services as prescribed and  
10 certain acts relating to sexual activity; to provide  
11 penalties; to require reports; to harmonize provisions;  
12 and to repeal the original sections.

13 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 5 of this act shall be known  
2 and may be cited as the Nebraska Prostitution Intervention and  
3 Treatment Act.

4           Sec. 2. The Legislature finds that:

5           (1) Increasing prostitution in Nebraska has become  
6 harmful to communities and neighborhoods, often contributing  
7 to both incidents of crime and fear of crime. Prostitution  
8 depletes local law enforcement resources and leads to a reduction  
9 in the quality of life for the residents and businesses that  
10 are within close geographic proximity to concentrated areas of  
11 prostitution. Prostitution-related activities create noise, litter,  
12 and harassment of residents and businesses and promote declining  
13 property values. Residents and businesses in areas within close  
14 geographic proximity to prostitution-related activity often feel  
15 threatened when solicitors proposition on their streets or when  
16 prostitution-related activities are performed in parked cars, empty  
17 parking lots, or alleyways;

18           (2) Many prostitutes use prostitution to support drug  
19 and alcohol addictions. In addition, many prostitutes suffer  
20 from significant mental health disorders that lead to increased  
21 dependency on drugs and alcohol. When panderers are involved, the  
22 prostitutes are often subject to physical and psychological abuse;

23           (3) Solicitors of prostitution are equally contributing  
24 sexual offenders;

25           (4) Resources are needed to coordinate and deliver an

1 array of community-based services to address issues related to  
2 prostitution, including, but not limited to, lifestyle choices,  
3 substance abuse, mental health disorders, workforce assessment and  
4 preparation, education, and other community-based services;

5 (5) A coordinated array of community-based services  
6 delivered to individuals engaged in prostitution-related activity  
7 can mitigate individual lifestyle choices and break the cycle of  
8 prostitution; and

9 (6) The quality of life for residents and businesses can  
10 be drastically improved when the prevalence of prostitution-related  
11 activity is significantly reduced or removed within residential and  
12 business areas.

13 Sec. 3. It is the intent of the Legislature to provide  
14 funds for education and treatment of individuals involved in  
15 prostitution-related activities.

16 Sec. 4. (1) The Legislature shall appropriate funds  
17 to create a coordinated program of education and treatment for  
18 individuals that participate in prostitution-related activities as  
19 described in section 28-801.

20 (2) The Department of Health and Human Services Finance  
21 and Support, in consultation with the regional behavioral health  
22 authorities, shall distribute funds to regional behavioral health  
23 authorities that can demonstrate to the department a high incidence  
24 of prostitution within the behavioral health region. The department  
25 may consider the following criteria for regional behavioral health

1 funding under this section:

2 (a) The number of criminal convictions for  
3 prostitution-related activities within the counties that comprise  
4 the regional behavioral health authority;

5 (b) Evidence that prostitution-related activities are  
6 impacting residential areas and businesses and the quality of life  
7 of residents in such areas and businesses is negatively impacted;

8 (c) The amount of local law enforcement resources devoted  
9 specifically to curtailing prostitution-related activity;

10 (d) Evidence that the regional behavioral health  
11 authorities consulted with recognized neighborhood and business  
12 associations within geographic proximity to concentrated areas of  
13 prostitution; and

14 (e) The amount of local subdivision treatment funding.

15 Each regional behavioral health authority may contract  
16 with qualifying public, private, or nonprofit entities for the  
17 provision of such education and treatment. Such qualifying entities  
18 may obtain additional funding from cities and counties to provide a  
19 coordinated program of treatment and education for individuals that  
20 participate in prostitution-related activities.

21 Sec. 5. The Department of Health and Human Services  
22 Finance and Support shall adopt and promulgate rules and  
23 regulations to carry out the Nebraska Prostitution Intervention and  
24 Treatment Act.

25 Sec. 6. Section 28-101, Revised Statutes Cumulative

1 Supplement, 2004, is amended to read:

2 28-101 Sections 28-101 to 28-1350 and sections 8, 10, 11,  
3 and 12 of this act shall be known and may be cited as the Nebraska  
4 Criminal Code.

5 Sec. 7. Section 28-801, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 28-801 (1) Any person who performs, offers, or agrees to  
8 perform any act of sexual contact or sexual penetration, as those  
9 terms are defined in subdivision (6) of section 28-318, with any  
10 person not his or her spouse, in exchange for money or other thing  
11 of value, commits prostitution.

12 (2) ~~Prostitution is a Class I misdemeanor~~ Any person  
13 convicted of violating subsection (1) of this section shall be  
14 punished as follows:

15 (a) If such person has had no prior convictions or has  
16 had one prior conviction, such person shall be guilty of a Class  
17 II misdemeanor. If the court places such person on probation, such  
18 order of probation shall include, as one of its conditions, that  
19 such person shall satisfactorily attend and complete an appropriate  
20 mental health and substance abuse assessment conducted by a  
21 licensed mental health professional or substance abuse professional  
22 authorized to complete such assessment; and

23 (b) If such person has had two or more prior convictions,  
24 such person shall be guilty of a Class I misdemeanor. If the  
25 court places such person on probation, such order of probation

1 shall include, as one of its conditions, that such person shall  
2 satisfactorily attend and complete an appropriate mental health and  
3 substance abuse assessment conducted by a licensed mental health  
4 professional or substance abuse professional authorized to complete  
5 such assessment.

6 For purposes of this subsection, prior conviction means  
7 any conviction on or after the effective date of this act for  
8 violation of subsection (1) of this section or any conviction on  
9 or after the effective date of this act for violation of a city or  
10 village ordinance relating to prostitution.

11 Sec. 8. (1) Any person who solicits another person not  
12 his or her spouse to perform any act of sexual contact or sexual  
13 penetration, as those terms are defined in section 28-318, in  
14 exchange for money or other thing of value, commits solicitation of  
15 prostitution.

16 (2) Any person convicted of violating subsection (1) of  
17 this section shall be punished as follows:

18 (a) If such person has had no prior convictions, such  
19 person shall be guilty of a Class I misdemeanor and pay a  
20 fine of not less than two hundred fifty dollars. If the court  
21 places such person on probation, such order of probation shall  
22 include, as one of its conditions, the payment of a fine of  
23 not less than two hundred fifty dollars and such person shall  
24 satisfactorily attend and complete an appropriate mental health and  
25 substance abuse assessment conducted by a licensed mental health

1 professional or substance abuse professional authorized to complete  
2 such assessment; and

3 (b) If such person has had one or more prior convictions,  
4 such person shall be guilty of a Class IV felony and pay a fine of  
5 not less than five hundred dollars. If the court places such person  
6 on probation, such order of probation shall include, as one of its  
7 conditions, the payment of a fine of not less than five hundred  
8 dollars and such person shall satisfactorily attend and complete an  
9 appropriate mental health and substance abuse assessment conducted  
10 by a licensed mental health professional or substance abuse  
11 professional authorized to complete such assessment.

12 Sec. 9. Section 28-804.01, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 28-804.01 In all cases arising under sections 28-801 to  
15 28-804 and section 8 of this act, no person shall be excused  
16 from testifying against another person by reason of such testimony  
17 tending to incriminate the person testifying, but the testimony  
18 so given, unless voluntary, shall in no case be used against the  
19 person so testifying in any criminal prosecution or otherwise.

20 Sec. 10. For purposes of sections 10 to 12 of this act,  
21 the following definitions apply:

22 (1) Actor means a person who solicits, procures, or  
23 supervises the services or labor of another person;

24 (2) Commercial sexual activity means any sex act on  
25 account of which anything of value is given, promised to, or

1 received by any person;

2 (3) Financial harm means theft by extortion as described  
3 by section 28-513;

4 (4) Forced labor or services means labor or services that  
5 are performed or provided by another person and are obtained or  
6 maintained through:

7 (a) Inflicting or threatening to inflict serious personal  
8 injury as defined by section 28-318;

9 (b) Physically restraining or threatening to physically  
10 restrain another person;

11 (c) Knowingly destroying, concealing, removing,  
12 confiscating, or possessing any actual or purported passport  
13 or other immigration document or any other actual or purported  
14 government identification document of another person; or

15 (d) Causing or threatening to cause financial harm to  
16 another person;

17 (5) Labor means work of economic or financial value;

18 (6) Maintain means, in relation to labor or services,  
19 to secure continued performance thereof, regardless of any initial  
20 agreement by the victim to perform such type of service;

21 (7) Minor means a person younger than eighteen years of  
22 age;

23 (8) Obtain means, in relation to labor or services, to  
24 secure performance thereof;

25 (9) Services means an ongoing relationship between a



1 person and the actor in which the person performs activities under  
2 the supervision of or for the benefit of the actor. Commercial  
3 sexual activity and sexually-explicit performances are forms of  
4 services under this section. Nothing in this subdivision shall be  
5 construed to legalize prostitution;

6 (10) Sexually-explicit performance means a live or public  
7 play, dance, show, or other exhibition intended to arouse or  
8 gratify sexual desire or to appeal to prurient interests; and

9 (11) Trafficking victim means a person subjected to any  
10 act or acts prohibited by section 11 of this act.

11 Sec. 11. (1) No person shall knowingly subject or attempt  
12 to subject another person to forced labor or services. If an actor  
13 knowingly subjects another person to forced labor or services by:

14 (a) Inflicting or threatening to inflict serious personal  
15 injury as defined by section 28-318, the actor is guilty of a Class  
16 III felony;

17 (b) Physically restraining or threatening to physically  
18 restrain another person, the actor is guilty of a Class III felony;

19 (c) Knowingly destroying, concealing, removing,  
20 confiscating, or possessing any actual or purported passport or  
21 other immigration document, or any other actual or purported  
22 government identification document, of such other person, the actor  
23 is guilty of a Class IV felony; or

24 (d) Causing or threatening to cause financial harm to  
25 another person, the actor is guilty of a Class I misdemeanor.

1           (2) No person shall knowingly recruit, entice, harbor,  
2 transport, provide, or obtain by any means or attempt to recruit,  
3 entice, harbor, provide, or obtain by any means a minor for the  
4 purpose of having such minor engage in commercial sexual activity,  
5 sexually-explicit performance, or the production of pornography,  
6 or to cause or attempt to cause a minor to engage in commercial  
7 sexual activity, sexually-explicit performance, or the production  
8 of pornography. A person who violates this subsection shall be  
9 punished as follows:

10           (a) In cases in which the actor uses overt force or the  
11 threat of force, the actor is guilty of a Class II felony;

12           (b) In cases in which the victim has not attained the age  
13 of fifteen years and the actor does not use overt force or the  
14 threat of force, the actor is guilty of a Class II felony; or

15           (c) In cases involving a victim between the ages of  
16 fifteen and eighteen years, and the actor does not use overt force  
17 or threat of force, the actor is guilty of a Class III felony.

18           (3) Any person who knowingly (a) recruits, entices,  
19 harbors, transports, provides, or obtains by any means, or attempts  
20 to recruit, entice, harbor, transport, provide, or obtain by any  
21 means, a person eighteen years of age or older, intending or  
22 knowing that the person will be subjected to forced labor or  
23 services or (b) benefits, financially or by receiving anything of  
24 value, from participation in a venture which has, as part of the  
25 venture, an act that is in violation of subsection (1) of this

1 section, is guilty of a Class IV felony.

2           Sec. 12. (1) The Attorney General, in consultation with  
3 the Department of Health and Human Services, shall, no later  
4 than one year after the effective date of this act, issue a  
5 report outlining how existing victim and witness laws and rules  
6 and regulations respond to the needs of trafficking victims and  
7 suggesting areas of improvement and modification.

8           (2) The Department of Health and Human Services, in  
9 consultation with the Attorney General, shall, no later than one  
10 year after the effective date of this act, issue a report outlining  
11 how existing social service programs respond or fail to respond  
12 to the needs of trafficking victims and the interplay of such  
13 existing programs with federally funded victim service programs and  
14 suggesting areas of improvement and modification.

15           Sec. 13. Original sections 28-801 and 28-804.01, Reissue  
16 Revised Statutes of Nebraska, and section 28-101, Revised Statutes  
17 Cumulative Supplement, 2004, are repealed.